



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 03-049

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The text of both s. NR 428.04 (2) (g) 4. a. and b. is ambiguous as both provisions contain the phrase “more restrictive of either 35 parts per million dry volume (ppmdv), corrected to 15% oxygen, on a 30-day rolling average basis” without giving an alternative emission limitation implied by the use of the phrase “more restrictive of either.”

b. The department should review the use of the phrase “aggregate average ozone season NO_x emission limitation” in s. NR 428.06 (2) (a) to ensure that the meaning of the phrase is clear. Chapter NR 428 presently does not contain this phrase. The chapter does contain phrases such as “aggregate ozone season NO_x emission rate limit,” “ozone season aggregate mass NO_x emission limitation,” and “aggregate average ozone season emission rate” in s. NR 428.06 (4) (d) 1., (e) 1., and (i) 2., respectively.

6. Potential Conflicts With, and Comparability to, Related Federal Regulations

The report to the Legislative Council Rules Clearinghouse accompanying the rule indicates that the rule is amending ch. NR 428, which the department submitted in December 2000 to the U.S. Environmental Protection Agency as part of a plan to attain the one-hour ozone standard in eastern Wisconsin. If the department will be submitting the rule to the U.S. Environmental Protection Agency under the Federal Clean Air Act for control of atmospheric ozone, the rule will be subject to the requirements beginning in the third sentence in s. 285.11 (6) (intro.), Stats., and the department should indicate in the analysis accompanying the rule whether

the rule conforms with the Federal Clean Air Act, or, if it does not, whether the Governor has made the determination required under s. 285.11 (6) (intro.), Stats.